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June 29, 2006

The Honorable Elaine Chao
Secretary
US Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Chao:

I was alarmed to see an article in today's Louisville *Courier-Journal* that the special investigator on the Mine Safety and Health Administration (MSHA) investigation into the Darby Mine accident is refusing to ask certain key questions of an MSHA mine inspector.

As reported in the *Courier-Journal*, after allowing miners' representatives to ask verbal and written questions of witnesses during the investigation, MSHA special investigator Richard Herndon told non-MSHA representatives that only written questions would be permitted for witness Stanley Sturgill, who was MSHA's inspector at the Darby Mine. According to the article, after having asked written questions submitted by non-MSHA representatives for previous witnesses, Mr. Herndon then refused to ask Mr. Sturgill a number of critical questions submitted by attorney Tony Oppegard and other representatives, including why the miners at Darby might be cutting metal straps from the roof of the mine just prior to the explosion.

Accordingly, I would like answers to the following questions:

- Why did the MSHA special investigator refuse to ask all of the questions posed by Mr. Oppegard and the other miners' representatives to the MSHA inspector?
- Why has MSHA chosen to treat the MSHA inspector witness differently from other witnesses thus far in this investigation, including state mine inspectors who served as witnesses?

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- Were the miners at Darby cutting metal straps from the roof of the mine just prior to the explosion, and if so, why?
- Did any employee of the mine, including management, talk to the MSHA inspector about the propriety of the metal straps intersecting the mine seals? Or tell the MSHA inspector that there were metal straps intersecting mine seals in the return air course?
- Did the MSHA inspector advise anyone in management at the mine that those metal straps had to be removed?
- Did the MSHA inspector tell anyone at the mine when he would be returning to the mine?
- After the Sago accident, did anyone from MSHA's national office or District 7 office discuss with inspectors the need to keep a lookout for metal straps or wire roof mesh intersecting with mine seals?
- Were District 7 inspectors ever advised to discuss with mine management the problems of roof straps or wire mesh intersecting with mine seals?
- Does MSHA have a policy or other rule prohibiting straps or wire mesh intersecting with mine seals?

This troubling turn of events in the Darby Mine accident investigation underscores the concerns many have raised in the past several years regarding MSHA serving dual roles as pre-accident inspector and post-accident investigator. Treating MSHA inspectors differently from other witnesses only harms the public's confidence in the thoroughness, accuracy, and independence of the accident investigation.

I would appreciate an answer to the above questions within the next seven days.

Sincerely,

A handwritten signature in black ink that reads "George Miller". The signature is written in a cursive, flowing style.

GEORGE MILLER
Senior Democratic Member